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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,398	06/09/2005	Franz Schorn	D4700-00395	2266

8933 7590 05/28/2010
DUANE MORRIS LLP - Philadelphia
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

EXAMINER

HWU, DAVIS D

ART UNIT	PAPER NUMBER
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3752

MAIL DATE	DELIVERY MODE
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05/28/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/538,398	Applicant(s) SCHORN, FRANZ	
	Examiner Davis Hwu	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-6,8,9,12 and 15-34 is/are pending in the application.
- 4a) Of the above claim(s) 4-6 and 15-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,8,9,12 and 32-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

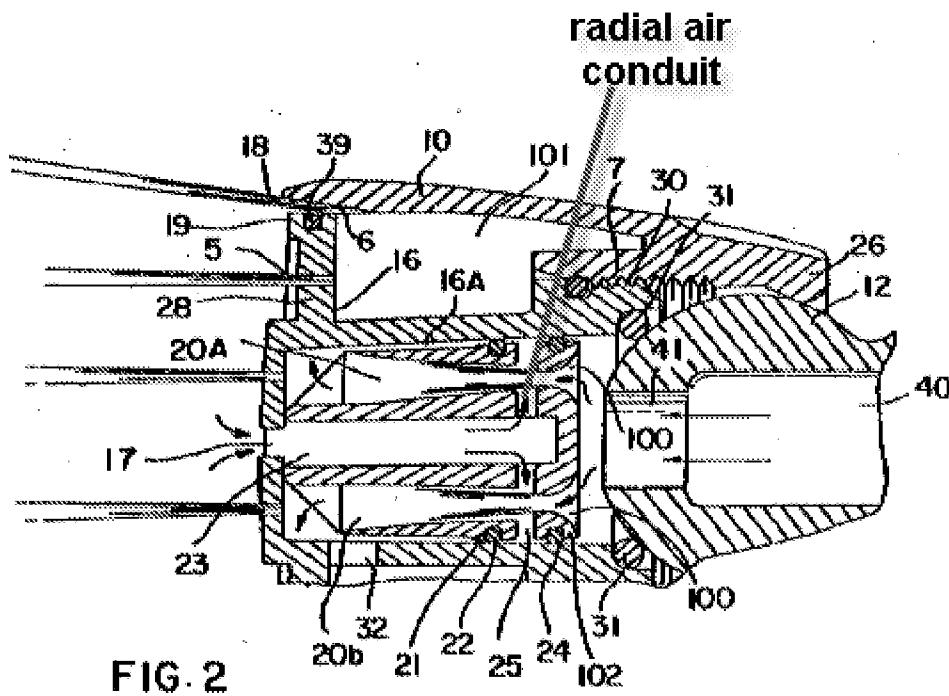
Response to Amendment

1. This office action is in response to the RCE of April 12, 2010.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102

3. Claims 1, 2, 8, 9, and 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Gonzalez (US Patent 5,111,994 from the IDS).

Gonzalez '994 shows a shower head having: a housing 10 and a water inlet 40 as recited; a jet disk (28, 16, and 30) for exit of jets, wherein the jet disk has a front face having apertures 5 and 18 from which the jets exit from the shower head; an aerator 14 comprising a hub (the section from the middle of aerator 14 to flange 102) located centrally in the jet disk, the hub having an axial passage 23 through which air intake takes place from the front face of the jet disk, at least one radial air conduit (see Fig. 2 below) in a vicinity of an end of the hub that is located upstream of the jet disk and faces an interior of the housing, and aerated water flowing along a lateral outside surface (along 16A) on an exterior of the hub and wherein the exterior of the hub has essentially axially arrayed guides 16A and a deflector 22 arranged on the base of the hub for guiding the discrete aerated jets outwardly from the hub toward the apertures from which the jets exit the jet disk.



Claim Rejections - 35 USC § 103

4. Claims 12, 33, and 34 rejected under 35 U.S.C. 103(a) as being unpatentable over Gonzalez (US Patent 5,111,994 from the IDS).

It would have been a design choice to make the guides inclined or curved as recited in claims 12, 33, and 34 since the shower head would still perform the function of spraying aerated water with such modifications.

Response to Arguments

5. In the operation of the Gonzalez shower head, aerated water flows along the axial passages 16A into ports 32 and into chamber 101, thus meeting the limitation of "aerated water flowing along a lateral outside surface on an exterior of the hub" and o-

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ring 22 deflects aerated water back into the direction of the apertures 5 and 18, the o-ring 22 is considered as a deflector.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davis Hwu whose telephone number is (571)272-4904. The examiner can normally be reached on Mon-Friday 8:00-4:30. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Len Tran can be reached on (571)272-1184. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system.

/Davis Hwu/
Primary Examiner, Art Unit 3752